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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/855,917      | 05/15/2001  | James A. Brownlee    | LCB 317             | 9463             |

7590 10/22/2002

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EXAMINER

BRITTAINE, JAMES R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3677     | 6            |

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                   |                 |
|------------------------------|-------------------|-----------------|
| <b>Office Action Summary</b> | Application No.   | Applicant(s)    |
|                              | 09/855,917        | BROWNLEE ET AL. |
|                              | Examiner          | Art Unit        |
|                              | James R. Brittain | 3677            |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 08 July 2002.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4 and 6 is/are rejected.
- 7) Claim(s) 2,5 and 7-9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input checked="" type="checkbox"/> Other: <i>Not. Irr. Mail</i> .       |

## DETAILED ACTION

### ***Election/Restrictions***

Applicant's election without traverse of Group I comprising claims 1-9 in Paper No. 5 is acknowledged.

Claims 10-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rohaly (US 5669111).

Rohaly (figures 1-5) teaches cable tie structure with a neck section that has a width that transitions from the width of the strap to the width of the cable tie head as shown in figure 3. The strap accepting channel 28 is substantially perpendicular to the intermediate section of the strap 12. The neck section, comprised of the neck area 22 and strengthening gussets 24, has a reduced thickness at the gusset 26 located in the neck area 22 that is thinner than the intermediate section of the strap 12 as shown in figure 4. The neck area 22 of the neck section extends between the strengthening gussets 24 as shown in figure 4. The strengthening gussets 24 along with the neck

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area 22 increase the cross-sectional area of the neck so that it is greater than the intermediate section of the strap as shown in figures 3-5. As to claim 4, the gusset 26 is considered to be a channel with a circular perimeter that is located on the outer side 16 and also the strengthening gussets 24 are at the sides of the structure.

***Allowable Subject Matter***

Claims 2, 5, and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed July 8, 2002 have been fully considered but they are not persuasive. Applicant argues that "Contrary to the Examiner's contention, *Rohaly* does not disclose, teach or suggest a neck section having a width that transitions from a narrower width of the strap to a width that is substantially the same as a width of the cable tie head. As shown in FIG. 3 of *Rohaly*, the width of the neck section is greater than the width of strap 12. However, as also shown in FIG. 3 of *Rohaly*, the width of the neck section is substantially less than the width of the locking head 20. In fact, the *Rohaly* reference only discloses a neck section having strengthening gussets 24 transitioning the cable tie strap into the cable tie head." (Remarks, page 3, lines 8-14). As applicant indicates in the last quoted sentence above "**the *Rohaly* reference only discloses a neck section having strengthening gussets 24 transitioning the cable tie strap into the cable tie head**" (emphasis added by the examiner). There are no steps or discontinuities in the transition at either the cable tie strap or cable tie head, it is

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smooth. Your remark specifically defines the transition in the neck that the rejection is meant to convey in reference to Rohaly. It is not seen how applicant can deny the existence of a transition in the first quoted sentence and then see it in the last where the outlining transition is seen by applicant in the fastener of Rohaly (figure 3). Applicant's device has some thickened side structures in the neck region that clearly function as strengthening gussets.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain  
Primary Examiner  
Art Unit 3626

JRB  
October 18, 2002

Application/Control Number 09/855917  
Art Unit 3677

Attachment to Paper No. 6

### Notice Regarding Treatment of Irradiated Correspondence

The following papers have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process:

Mailroom Stamp Date

7/8/02

Certificate of Mailing Date

6/26/02

The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

#### COPY OF PAPERS ORIGINALLY FILED

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do not call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will not be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.